# Finance & Tax Committee

**Thursday, February 9, 2006**
**3:16 PM – 5:00 PM**
**404 HOB**

## MEETING PACKET

**Allan G. Bense**
**Speaker**

**Fred Brummer**
**Chair**

# The Florida House of Representatives

**Fiscal Council**

**Finance & Tax Committee**

**Allan G. Bense**
**Speaker**

**Fred Brummer**
**Chair**

## AGENDA

February 9, 2006
3:15 PM – 5:00 PM
404 HOB

I. Chairman's Remarks

II. **HB 3** – Florida Birth-Related Neurological Injury Compensation
by Representative Berfield

III. **CS/HB 157** – Homestead Assessments
by Representative Littlefield

IV. Adjourn

222 Capitol Building, 402 South Monroe Street, Tallahassee, Florida 32399-1300
(850) 488-1601 Fax:

HB 3

# HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 3 Florida Birth-Related Neurological Injury Compensation Plan
**SPONSOR(S):** Berfield; Goldstein
**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 542

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|---|---|---|---|
| 1) Civil Justice Committee | 5 Y, 0 N | Kruse | Bond |
| 2) Health Care General Committee | 10 Y, 0 N | Ciccone | Brown-Barrios |
| 3) Finance & Tax Committee | | Levin | Diez-Arguelles |
| 4) Justice Council | | | |
| 5) | | | |

## SUMMARY ANALYSIS

The Florida Birth-Related Neurological Injury Compensation Plan (plan) is the alternative to medical malpractice claims for birth-related neurological injuries. The plan provides compensation and other services to persons with birth-related neurological injuries. The benefits are more restricted than the remedies that would be provided by tort law, but a claimant is not required to prove malpractice. One issue that arises in cases to determine whether a family is required to file for benefits under the plan is whether the mother was properly notified regarding the plan.

This bill provides that the Division of Administrative Hearings has the exclusive jurisdiction to decide whether the statutory notice provision has been met.

Additionally, the bill authorizes the Florida Birth-Related Neurological Injury Compensation Association (NICA), which administers the plan, to contract with the State Board of Administration to invest and reinvest plan funds. NICA currently has authority to invest plan funds, and the bill provides that the State Board of Administration is one of the entities with whom NICA may contract for this service.

This bill does not appear to have a fiscal impact on state or local governments.

This bill provides an effective date of upon becoming law.

## FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

**Florida Birth-Related Neurological Injury Compensation Plan**

The Florida Birth-Related Neurological Injury Compensation Plan (the "plan") was enacted by the Legislature in 1988.[1] Currently, Virginia is the only other state in the nation that has a no-fault coverage plan that is similar to Florida's plan.[2] The plan was created to provide compensation, long-term medical care, and other services to persons with birth-related neurological injuries. Although the benefits paid under the plan are more restricted than the remedies provided by tort law, the plan does not require the claimant to prove malpractice and provides a streamlined administrative hearing to resolve the claim.[3]

A "birth-related neurological injury" as defined in s. 766.302(2), F.S., is an injury to the brain or spinal cord of a live infant weighing at least 2,500 grams for a single gestation or, in the case of a multiple gestation, a live infant weighing at least 2,000 grams at birth caused by oxygen deprivation or by mechanical injury occurring in the course of labor, delivery, or resuscitation in the immediate postdelivery period in a hospital. The injury must render the infant permanently and substantially mentally and physically impaired.

**Florida Birth-Related Neurological Injury Compensation Association (NICA)**

The entity charged with administering the plan is the Florida Birth-Related Neurological Injury Compensation Association (NICA or association). Under s. 766.315(4), F.S., NICA's duties include:

- Administering the plan;
- Administering the funds collected;
- Reviewing and paying claims;
- Directing the investment and reinvestment of any surplus funds over losses and expenses;
- Reinsuring the risks of the plan in whole or in part;
- Suing and being sued, appearing and defending, in all actions and proceedings in its name; and
- Taking such legal action as may be necessary to avoid payment of improper claims.[4]

The funding for the plan is derived from an appropriation by the Legislature when the plan was created and annual fees paid by physicians and hospitals.[5]

The plan pays, on behalf of a qualifying infant:

- Necessary and reasonable care, services, drugs, equipment, facilities, and travel;[6]

---

[1] Chapter 88-1, ss. 60-75, L.O.F., was enacted by the Legislature in an attempt to stabilize and reduce malpractice insurance premiums for physicians practicing obstetrics, according to the legislative findings and intent cited in s. 766.301(1)(c), F.S.

[2] Governor's Select Task Force on Healthcare Professional Liability Insurance, *Report and Recommendations*, p. 307 (2003).

[3] See *Florida Birth-Related Neurological Injury Compensation Ass'n v. McKaughan*, 668 So.2d 974, 977 (Fla. 1996).

[4] Section 766.315(4), F.S.

[5] Section 766.314, F.S., requires non-participating physicians to pay $250 per year, participating physicians to pay $5,000 per year, and hospitals to pay $50 per infant delivered during the prior year.

- One-time cash award, not to exceed $100,000, to the infant's parents or guardians;[7]
- Death benefit of $10,000 for the infant; and
- Reasonable expenses for filing the claim, including attorney's fees.

**Filing a Claim for Benefits**

A claim for benefits under the plan must be filed within five years of the birth of the infant alleged to be injured.[8] The parents or guardians of the infant petition with the Division of Administrative Hearings (DOAH). DOAH serves a copy of the petition upon NICA, the physician(s) and hospital named in the petition, and the Division of Medical Quality Assurance.[9] Within ten days of filing the petition, the parents or guardian must provide NICA all medical records, assessments, evaluations and prognoses, documentation of expenses, and documentation of any private or governmental source of services or reimbursement relative to the impairments. An administrative law judge (ALJ) from DOAH will set a hearing on the claim to be conducted 60-120 days from the petition filing date.

The issue of whether the claim for compensation is covered by the plan is determined exclusively in an administrative proceeding.[10] The ALJ presiding over the hearing makes the following determinations:

- Whether the injury claimed is a birth-related neurological injury;
- Whether obstetrical services were delivered by a participating physician; and
- How much compensation, if any, is awardable under s. 766.31, F.S.[11]

If the ALJ determines that an injury meets the definition of a birth-related neurological injury, compensation from the plan is the exclusive legal remedy.[12] If the ALJ determines that the injury alleged is not a birth-related neurological injury or that the obstetrical services were not delivered by a participating physician, the ALJ will enter an order to that effect. The ALJ may also bifurcate the proceeding and address compensability and notice first, and address an award, if any, in a separate proceeding.[13] If any party chooses to appeal the ALJ's order under s. 766.309, F.S., the appeal must be filed in the District Court of Appeal.[14]

**Notice Requirement**

Section 766.316, F.S., requires any hospital with a participating physician on its staff, and each participating physician under the plan to provide notice to an obstetrical patient as to the limited no-fault alternative for birth-related neurological injuries. The notice must:

- be provided on forms furnished by the association; and
- include a clear and concise explanation of a patient's rights and limitations under the plan.

This section also provides that notice does not need to be provided to a patient when the patient has an emergency medical condition or when notice is not practicable. This section does not specifically address the effect of failure to provide notice to the obstetrical patient.

---

[6] Expenses that can be compensated by state or federal governments, or by private insurers, are not covered by the plan.
[7] Often the award is paid out over time to assist the parents or guardians in making necessary modifications to living quarters to accommodate a disabled child.
[8] Section 766.313, F.S.
[9] Only infants born in a hospital are covered by the plan.
[10] Section 766.301(1)(d), F.S.
[11] Section 766.309(1), F.S. The determination of notice is not explicitly provided for in this section.
[12] Section 766.303(2), F.S., only allows a civil action in place of a claim under the plan where there is clear and convincing evidence of bad faith or malicious purpose or willful and wanton disregard of human rights, safety, or property.
[13] Section 766.309(4), F.S.
[14] Section 766.311(1), F.S.

Courts have addressed the issue of who determines whether notice has been properly provided. Four of the five District Courts of Appeal have held that the ALJ has the exclusive jurisdiction to determine whether notice has been properly provided. However, in the Second District Court of Appeal, in *Bayfront Medical Center, Inc. v. NICA*, 893 So. 2d 636 (Fla. 2nd DCA 2005), the court affirmed its approach that the ALJ's jurisdiction extends only to the determination of whether the child suffered a neurological injury that was compensable under the plan. The court recognized the conflict with the other district courts of appeal, but declined to recede from its holding and certified the conflict to the Florida Supreme Court.[15] In *Tabb v. Florida Birth-Related Neurological Injury Compensation Association*, 880 So. 2d 1253, 1256 (Fla. 1st DCA 2004), the First District Court of Appeal reasoned that "[i]n order to 'hear and determine' a claim, an ALJ must, almost of necessity, decide whether notice was given, because if no notice was given, the exclusivity provision of the statute does not apply." In addition, the court pointed to recent amendments to the statute that implicitly acknowledge the existing case law indicating that an ALJ has jurisdiction to determine whether notice was provided.

**Effect of Bill**

Notice

This bill amends s. 766.309(1), F.S., to provide that it is the exclusive jurisdiction of an administrative law judge of DOAH to determine whether the notice requirement in s. 766.316, F.S., has been met.

The bill also states that it is the intent of the Legislature that the amendment contained in this act clarifies that since July 1, 1998, the administrative law judge has had the exclusive jurisdiction to make factual determinations as to whether the notice requirements in s. 766.31, F.S., are satisfied.

Contracts for Investment

This bill also authorizes NICA, which administers the plan, to contract with the State Board of Administration[16] to invest and reinvest plan funds. NICA currently has the authority to invest plan funds, and this bill authorizes NICA to utilize the State Board of Administration to provide NICA an additional source for managing investments at no cost to the state. The State Board of Administration has agreed to invest the funds of NICA, should this bill become law.

C. SECTION DIRECTORY:

**Section 1.** Amends s. 766.309, F.S., to provide that an ALJ of DOAH has the exclusive jurisdiction to determine whether the notice requirement in s. 766.316, F.S., has been met.

**Section 2.** Provides that it is the intent of the Legislature that the amendment contained in this act clarifies that since July 1, 1998, an ALJ of DOAH has had the exclusive jurisdiction to make factual determinations as to whether the notice requirements in s. 766.31, F.S., are satisfied.

**Section 3.** Amends s. 766.315, F.S., to authorize the State Board of Administration to invest and reinvest funds for NICA.

**Section 4.** Provides an effective date of upon becoming a law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

[15] *Bayfront* at 637, 638.

[16] The State Board of Administration (SBA) is the professional investment organization for Florida. The SBA manages 25 funds, comprising more than $130 billion in assets under management at the end of fiscal year 2004.

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to take an action requiring the expenditure of funds, nor does it reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor does it reduce the percentage of state tax shared with counties or municipalities.

2. Other:

Florida courts have found that the Legislature has the authority to apply law retroactively as long as the new law does not impair a vested right.[17] Courts have used a weighing process to decide whether to sustain the retroactive application of a statute that has three considerations: the strength of the public interest served by the statute, the extent to which the right affected is abrogated, and the nature of the right affected.[18] In this instance, the bill does not appear to impair a vested right of a claimant or defendant, but may rather seek to serve the public interest. The bill provides that an ALJ of DOAH has exclusive jurisdiction to determine if the notice requirements were met.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

---

[17] *Dept. of Transportation v. Knowles*, 402 So. 2d 1155, 1157 (Fla. 1981). *Village of El Portal v. City of Miami Shores*, 362 So. 2d 275, 277 (Fla. 1978); *McCord v. Smith*, 43 So. 2d 704, 708-709 (Fla. 1949).

[18] Supra *Knowles* at 1158.

A bill to be entitled

An act relating to the Florida Birth-Related Neurological Injury Compensation Plan; amending s. 766.309, F.S.; requiring the administrative law judge to determine whether factual determinations regarding required notice to obstetrical patients of participation in the plan are satisfied; providing exclusive jurisdiction to make such determinations; providing legislative intent; amending s. 766.315, F.S.; authorizing the State Board of Administration to invest and reinvest funds held on behalf of the plan pursuant to certain requirements; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (d) is added to subsection (1) of section 766.309, Florida Statutes, to read:

766.309 Determination of claims; presumption; findings of administrative law judge binding on participants. --

(1) The administrative law judge shall make the following determinations based upon all available evidence:

(d) Whether, if raised by the claimant or other party, the factual determinations regarding the notice requirements in s. 766.316 are satisfied. The administrative law judge has the exclusive jurisdiction to make these factual determinations.

Section 2. It is the intent of the Legislature that the amendment to s. 766.309, Florida Statutes, contained in this act, clarifies that since July 1, 1998, the administrative law

judge has had the exclusive jurisdiction to make factual determinations as to whether the notice requirements in s. 766.316, Florida Statutes, are satisfied.

Section 3. Paragraph (e) of subsection (5) of section 766.315, Florida Statutes, is amended to read:

766.315 Florida Birth-Related Neurological Injury Compensation Association; board of directors. --

(5)

(e) Funds held on behalf of the plan are funds of the State of Florida. The association may only invest plan funds in the investments and securities described in s. 215.47, and shall be subject to the limitations on investments contained in that section. All income derived from such investments will be credited to the plan. The State Board of Administration may invest and reinvest funds held on behalf of the plan in accordance with the trust agreement approved by the association and the State Board of Administration and within the provisions of ss. 215.44-215.53.

Section 4. This act shall take effect upon becoming a law.

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 157 CS Homestead Assessments
**SPONSOR(S):** Littlefield
**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 264

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|---|---|---|---|
| 1) Civil Justice Committee | 5 Y, 0 N, w/CS | Bond | Bond |
| 2) Local Government Council | 7 Y, 0 N | Camechis | Hamby |
| 3) Finance & Tax Committee | | Monroe KJSM | Diez-Arguelles |
| 4) Justice Council | | | |
| 5) | | | |

## SUMMARY ANALYSIS

The 1992 Save Our Homes amendment to the Florida Constitution places a "cap" on annual increases of the assessed value of homestead real property, providing substantial ad valorem tax relief to Florida homeowners. However, the amendment requires reassessment of homestead property to reflect the property's current just value when a "change in ownership", as defined by the Legislature, occurs. Reassessment generally results in higher annual ad valorem taxes assessed against the property due to the higher assessed value. The current statute defining "change in ownership" lists two types of title transfers that do not constitute a "change of ownership", but adding a co-owner to a homestead property is not included. Therefore, it appears that reassessment is required if a co-owner is added to the title for homestead property even when the original owner continues to qualify for the homestead exemption.

This bill amends the statute defining "change of ownership" to specify that adding co-owners to homestead property is not a "change in ownership" that requires reassessment of the homestead property if the same person is entitled to the homestead exemption as was previously entitled. Therefore, the assessed value of the property is not increased and higher ad valorem taxes on the property are avoided. However, if a new co-owner applies for a homestead exemption on the property, the application is considered a "change in ownership" that requires reassessment of the property to reflect its just value.

The bill does not have a direct fiscal impact on state government. However, the Revenue Estimating Conference has estimated that this bill would reduce local property tax revenues by $8.6 million, assuming there is no offsetting change to millage rates.

The bill has an effective date of July 1, 2006.

## FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes -- This bill prevents automatic reassessment of homestead real property when a co-owner is added to the deed if the same person continues to qualify for the homestead exemption, thereby preventing a potential increase in ad valorem taxes on the property.

B. EFFECT OF PROPOSED CHANGES:

**Present Situation**

The local ad valorem tax is an annual tax levied by local governments based on the value of real and tangible personal property as of January 1 of each year.[1] Florida's Constitution prohibits the state government from levying an ad valorem tax except on intangible personal property. The taxable value of real and tangible personal property is the fair market value of the property adjusted for any exclusions, differentials, or exemptions allowed by the constitution or the statutes.[2] Tax bills are mailed in November of each year based on the previous January 1st valuation and payment is due by the following March 31.[3] Local ad valorem tax revenues in Florida were approximately $22.4 billion in 2004.[4]

Article VII, § 6, Fla.Const., authorizes an exemption from ad valorem taxation for homestead property owned by a taxpayer and used as the owner's permanent residence or the permanent residence of another who is legally or naturally dependent upon the owner. The value of the homestead exemption is currently $25,000 of the assessed value of the real estate.

In 1992, the electorate adopted an amendment to art. VII, § 4, Fla.Const., known as the "Save Our Homes" amendment. The amendment limits increases in the ad valorem taxation of homestead real property by limiting increases in the assessed value of such property. The amendment provided for a base year "just value" assessment for each homestead as of January 1, 1994, and restricts subsequent increases in assessments to the lower of either (a) three percent of the prior year's assessment, or (b) the percent change in the Consumer Price Index. Homestead real property purchased after 1994 has a base year "just value" set in the first year that the exemption is available, with the same limits on future increases in the assessed value. In 2004, the Save Our Homes amendment provided approximately $4.5 billion in property tax relief to Florida homeowners.[5]

The limitation on future increases in the assessed value of homestead real property is only available to a current owner of the homestead real property. Article VII, § 4(c)3., Fla.Const., provides:

> After any change of ownership, as provided by general law, homestead property shall be assessed at just value as of January 1 of the following year. Thereafter, the homestead shall be assessed as provided herein.

The statutory definition of a change of ownership is codified in s. 193.155, F.S., which provides:

> (3) Except as provided in this subsection, property assessed under this section shall be assessed at just value as of January 1 of the year

[1] 2005 Florida Tax Handbook, p. 138, available from the House Finance & Tax Committee.
[2] 2005 Florida Tax Handbook, p. 138.
[3] 2005 Florida Tax Handbook, p. 136.
[4] 2005 Florida Tax Handbook, p. 135.
[5] 2005 Florida Tax Handbook, p. 139.

following a change of ownership. Thereafter, the annual changes in the assessed value of the property are subject to the limitations in subsections (1) and (2). For the purpose of this section, a change in ownership means any sale, foreclosure, or transfer of legal title or beneficial title in equity to any person, except as provided in this subsection. There is no change of ownership if:

(a) Subsequent to the change or transfer, the same person is entitled to the homestead exemption as was previously entitled and:

1. The transfer of title is to correct an error; or
2. The transfer is between legal and equitable title;

(b) The transfer is between husband and wife, including a transfer to a surviving spouse or a transfer due to a dissolution of marriage;

(c) The transfer occurs by operation of law under s. 732.4015; or

(d) Upon the death of the owner, the transfer is between the owner and another who is a permanent resident and is legally or naturally dependent upon the owner.

It is not unusual for a homeowner to add an additional co-owner to their property. One common reason for this type of transaction is that an elderly person wishes to add adult children as co-owners of homestead property in an attempt to avoid probate. This type of transaction, however, may be deemed a change in ownership that will result in an increase in the assessed value of the property (that is, a loss of the Save Our Homes benefit) in the year following the transaction.[6]

**Effect of Proposed Changes**

This bill amends s. 193.155, F.S., to provide that when a change or transfer of title is by an instrument in which the owner is listed as both grantor and grantee of the real property, and one or more other individuals are additionally named as grantee, the change or transfer is not a change in ownership that would require an increase in the assessed value as long as the same person is entitled to the homestead exemption as was previously entitled. However, if any individual who is additionally named as a grantee applies for a homestead exemption on the property, the application is considered a change of ownership and reassessment is required.

C. SECTION DIRECTORY:

Section 1 amends s. 193.155, F.S., to provide an additional exception applicable to the Save Our Homes amendment of the Florida Constitution.

Section 2 provides an effective date of July 1, 2006.

[6] See Attorney General Opinion 2001-31. See also: http://pqasb.pqarchiver.com/sptimes/887477751.html?MAC=707a8e7ae0b21690200d46a180abdacb&did=887477751&FMT=FT&FMTS=FT&date=Aug+25%2C+2005&author=HELEN+HUNTLEY&pub=St.+Petersburg+Times&printformat=&desc=Many+are+trying+to+save+that+tax+cap

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.

2. Expenditures: None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: The Revenue Estimating Conference has estimated that this bill would reduce local property tax revenues by $8.6 million, assuming there is no offsetting change to millage rates.

2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: As a result of this bill, an individual may add one or more co-owners to the deed for homestead property without losing the Save Our Homes benefit under certain circumstances. This will allow individual greater flexibility in managing their property without incurring adverse tax impacts.

D. FISCAL COMMENTS: None.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: This bill reduces the authority that cities or counties have to raise ad valorem tax revenues in the aggregate. As such, the mandates provision would appear to apply. However, since the bill is implementing a constitutional provision, it can be argued that the mandates provision does not affect this bill. Nevertheless, it is recommended that the bill be passed by a two-thirds margin to avoid any possible constitutional issues.

2. Other: The Legislature may only grant property tax exemptions that are authorized in the constitution, and modifications to property tax exemptions must be consistent with the constitutional provision authorizing the exemption.[7] This bill implements Art. VII, § 4, Fla. Const., which authorizes the Legislature to define, by general law, what constitutes a change in ownership.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

## IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On October 19, 2005, the Civil Justice Committee adopted one amendment to this bill. The language in the bill as filed was not an accurate reflection of technical terminology used in real property transactions. The amendment corrected language without changing the apparent intent of the bill. The bill was then reported favorably with a committee substitute.

[7] *Sebring Airport Authority v. McIntyre*, 783 So.2d 238, 247 (Fla. 2001).

CHAMBER ACTION

The Civil Justice Committee recommends the following:

**Council/Committee Substitute**

Remove the entire bill and insert:

A bill to be entitled

An act relating to homestead assessments; amending s. 193.155, F.S.; providing an additional criterion for determining no change in ownership of homestead property for homestead assessment purposes; specifying a condition for a change in ownership; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (a) of subsection (3) of section 193.155, Florida Statutes, is amended to read:

193.155 Homestead assessments.--Homestead property shall be assessed at just value as of January 1, 1994. Property receiving the homestead exemption after January 1, 1994, shall be assessed at just value as of January 1 of the year in which the property receives the exemption.

(3) Except as provided in this subsection, property assessed under this section shall be assessed at just value as of January 1 of the year following a change of ownership.

Thereafter, the annual changes in the assessed value of the property are subject to the limitations in subsections (1) and (2). For the purpose of this section, a change in ownership means any sale, foreclosure, or transfer of legal title or beneficial title in equity to any person, except as provided in this subsection. There is no change of ownership if:

(a) Subsequent to the change or transfer, the same person is entitled to the homestead exemption as was previously entitled and:

1. The transfer of title is to correct an error; ~~or~~

2. The transfer is between legal and equitable title; or

3. The change or transfer is by means of an instrument in which the owner is listed as both grantor and grantee of the real property and one or more other individuals are additionally named as grantee. However, if any individual who is additionally named as a grantee applies for a homestead exemption on the property, the application shall be considered a change of ownership;

Section 2. This act shall take effect July 1, 2006.